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09/678,619	10/02/2000	Gregg Motsenbocker	25963-656	4452

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EXAMINER

WINTER, GENTLE E

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 10/04/2002

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/678,619

Applicant(s)

MOTSENBOCKER, GREGG

Examiner

Gentle E. Winter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,8-36,39-41,43-45,47-49 and 53-58 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4,8-36,39-41,43-45,47-49 and 53-58 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

1. The objection to the use of trademarks is not withdrawn. Generic terminology is not the same as general class. Applicant may wish to consider either enumerating the active ingredients of the recited trademarked cleaners, or omit the trademark altogether. Additionally, numerous trademarks remain uncorrected. Including page 4, TRITON XL-80N, TRITON X-100. Page 6 BELMAY LEMON, LIFT OFF #2, CALUMET and others.
2. The rejection is repeated for applicant convenience: The use of the trademark has been noted in this application. It should be CAPITALIZED wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. The use of the expression "exempt VOC" in claim 2 and subsequent claims is accorded the meaning set forth on page 7, line 6 *et seq.* The rejection is withdrawn.

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6. The use of the expression "low VOC" is defined by the specification, and is accorded the meaning set forth in table 1 at page 29 of the application. The rejection is withdrawn.

7. Claim 2 recites the limitation "exempt VOC". There is insufficient antecedent basis for this limitation in the claim.

8. Claim 49 recites the limitation "low VOC composition of claim 1". There is insufficient antecedent basis for this limitation in the claim. Similarly, with the limitation "second low VOC composition of claim 1" also in claim 49. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102--Maintained

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-10, 12-15, 26-28, 36-39, 41, 42, and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 4,306,989 to Motsenbocker ('989). With respect to claim 1, '989 teaches a composition comprising a first solvent, wherein the first solvent is able to is able to remove adherent deposits from surfaces and substrates, and a carrier solvent that is an exempt VOC, or a non-VOC. Please note that "exempt VOC" has been construed to be defined by the species (or their functional equivalents) as identified in the specification.

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In accordance with this invention, a liquid composition is made up with a plurality of ingredients which exert mutually synergistic effects on adhesives and adhesive-backed labels. The ingredients include a first solvent, often having a high inherent volatility, that is selected for its property of being a good solvent for adhesives, and a carrier. The carrier is selected for a lower inherent volatility, so that the flammability of the total mixture is significantly reduced, for its "staying" power to remain without evaporation for a considerable time, and for its ability to dissolve the adhesive, or to hold in solution or suspension that which has been softened or dissolved by the first solvent. Advantageously, a second solvent can also be used. Preferably the first solvent is an aromatic, and the second solvent is a halogenated hydrocarbon solvent.

11. With respect to claim 2, '989 discloses that the solvent (xylene) is within the range 0.1% to about 50% wt% and the exempt VOC or non-VOC (water) is about 50-99 wt%.

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	Preferred Percentages	Range of Suitable Percentages
xylene	15	5 to 30
trichloroethylene	0	0 to 30

4

-continued

	Preferred Percentages	Range of Suitable Percentages
kerosene	50	0 to 70
water	27	20 to 55
surfactants	6	2 to 15
butyricellosolve	2	0 to 2

12. Claims 5 and 6, disclose that the carrier solvent is a petroleum distillate.

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Petroleum distillates are excellent for the carrier, especially kerosene. However, petroleum distillates in boiling ranges from naphtha to and even including diesel fuel can function with varying degrees of effectiveness. Naphtha appears to be next preferred to kerosene. 20

13. Claim 7 is directed toward an embodiment where the carrier solvent is water.

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ness. Naphtha appears to be next preferred to kerosene. 20
Also, when the compositions are to be emulsified, water can be used as a carrier.

14. Claims 8, 9, and 10 are anticipated by the table provided at claim 2. The additive could be trichloroethylene, a halogenated hydrocarbon solvent.

15. Claim 12 is anticipated by the reference to the addition of surfactants as a means to assist in the cleaning of the surface. Similarly claim 13 is anticipated by the reference to ethanol.

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Surfactants can be provided to assist in the cleaning of the surface and to aid in suspension and emulsification. Suitable examples are TritonX-100 and TritonX-114, sold by Rohm & Haas, Sorbitan esters, or nonyl phenoxy polyethoxy ethanol. 50

16. Claim 14 is anticipated by the reference to desirability of adding a fragrance (in this case lemon oil).

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nated entirely, or substituted in part for xylene. Some or no mineral oil, and some or no lemon oil may be used. Surfactants can be added in small amounts if desired. Mineral oil can be added in small amounts. It serves 40

17. Regarding claim 15, '989 discloses a first solvent (xylene) in the range 0.1-50 wt% and a carrier (water) in the range 10-99 wt% and a second solvent (trichloroethylene) in the range 0 to 20 wt%.

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	Preferred Percentages	Range of Suitable Percentages	65
xylene	15	5 to 30	
trichloroethylene	0	0 to 30	

4**-continued**

	Preferred Percentages	Range of Suitable Percentages	
5 kerosene	50	0 to 70	
water	27	20 to 55	
surfactants	6	2 to 15	
butylcellasolve	2	0 to 2	

18. Claims 26-28 are anticipated by the table shown at claim 15. Specifically the aggregation of water and surfactants is contemplated to be at up to 70% of the total composition.

19. Claim 36 is anticipated by '989, see specifically the table at claim 15 (above) and the reference to the use of mineral oil:

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Mineral oil can be added in small amounts. It serves surprisingly well to render removed, undissolved adhesives non-sticking so they can readily be wiped off. It 40

20. Referring to claim 39, and 47 wiping is disclosed in the '989 patent.

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Mineral oil can be added in small amounts. It serves surprisingly well to render removed, undissolved adhesives non-sticking so they can readily be wiped off. It also tends to leave a smooth clean surface after removal of adhesives to which surface a new label will readily adhere. 40

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21. Claim 41 is anticipated by '989 as set forth in the rejection of claims 15 and 39, i.e. a method of releasing adherent materials from a surface by applying a low VOC composition to the materials and removing the released deposits materials.

22. Claim 42 is anticipated '989, which teaches all the limitations of claim 41 and discloses a first solvent and a second exempt/non-VOC.

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15 In accordance with this invention, a liquid composition is made up with a plurality of ingredients which exert mutually synergistic effects on adhesives and adhesive-backed labels. The ingredients include a first solvent, often having a high inherent volatility, that is selected for its property of being a good solvent for adhesives, and a carrier. The carrier is selected for a lower inherent volatility, so that the flammability of the total mixture is significantly reduced, for its "staying" power to remain without evaporation for a considerable time, and for its ability to dissolve the adhesive, or to hold in solution or suspension that which has been softened or dissolved by the first solvent. Advantageously, a second solvent can also be used. Preferably the first solvent is an aromatic, and the second solvent is a halogenated hydrocarbon solvent.

23. Claim 47 is anticipated by the reference to wiping above (claim 39) and the fact that wiping is not always required.

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It is yet another object of the invention to provide a composition which is quick-acting on labels, so that

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very soon after application to a label, the label is penetrated, the adhesive softened, and the label with the adhesive can be lifted cleanly with a blade, leaving behind a surface which does not require wiping or further treatment to be clean enough for sale, and for the reception of another gummed label. It is useful to re-

24. With respect to claim 1, as amended, Applicant alleges that the specification at page 6 lines 7-12 defines "Light Hydrotreated Petroleum Distillates". The definition appears to relate to a C₁₀-C₁₇ hydrocarbon mixture. The mixture is anticipated by kerosene as originally pointed out. See attached MSDS. Applicant's arguments have been carefully considered and are not persuasive. The claim is anticipated, and the rejection is maintained. If Applicant persists with the arguments that the light hydrotreated solvent is not anticipated Applicant may consult the appended MSDS.

25. With respect to claim 2, because claim 2 has not been amended, and because claim 1 is still anticipated, the rejection as originally set forth remains. It is noted that Applicant has alleged "[t]he water based formulation in the indicated disclosure contains 20-55% water. Claim 2 recites the composition contains 50-99% of Light Hydrotreated Petroleum Distillates." And then concludes "Therefore, claim 2 is also not anticipated by Motsenbocker." Applicant's logic is not fully understood. After all due consideration of the propounded arguments the rejection is made final.

Claim Rejections - 35 USC § 102

26. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

27. Claims 1, 3 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 4,260,510 ('510) to Hey et al. Methylal is also known as formaldehyde dimethyl acetal as such, claim 4 is a subsumed by claim 3, and that which properly anticipates claim 4 also anticipates claim 3. Claim 4 is anticipated by the disclosure of the '510 patent, which discloses a cleaning composition comprising a first solvent (methylal), wherein the first solvent is able to remove adherent deposits from surfaces and substrates, and a carrier solvent that is an exempt VOC, or a non-VOC solvent (1,1,2-trichloro-1,2,2-trifluoroethane). (It is noted that the order of solvents is reversed i.e. primary v. secondary, this is not considered to be relevant since the composition is claimed)

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als. Such mixtures often comprise 1,1,2-trichloro-1,2,2- 10
trifluoroethane as a primary solvent and a cosolvent.
The latter may be selected from a very large number of
solvents including by way of example, methylene chlo-
ride, acetonitrile, methyl acetate, methylal, acetone,
1,1-dichloroethane, trans-dichloroethylene and lower 15
aliphatic alcohols, for example, ethanol.

28. Applicant has taken the position that Hey et al. does not "specifically disclose a composition 1,1,2-trichloro-1,2,2-trifluoroethane and methylal." The argument is not persuasive, because Hey et al. does specifically disclose a composition including 1,1,2-trichloro-1,2,2-trifluoroethane and methylal. Applicant has taken the position that the cited reference does not disclose any compositions containing methylal. The argument is not persuasive see excerpt above. It is not clear why Applicant is taking the untenable position that the composition is not

taught. Making such arguments does little to meaningfully advance prosecution. After all due consideration of the propounded arguments the rejection is made final.

Claim Rejections - 35 USC § 103

29. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

30. Claim 11, 43, and 44 were rejected under 35 U.S.C. 103(a) as being unpatentable over '989 in view of United States Patent No. 6,342,471 to Jackson, further in view of United States Patent No. 4,421,665 to Lloyd et al. ('665). With respect to claim 11, pursuant to the arguments set forth above, the '989 does not explicitly disclose the use of n-propyl bromide (nPB) as a cleaner. The prior art of record is very clear that nPB has relatively low ozone depletion potentials (ODPs) (as is indicated in Applicant's admitted prior art). Notable, is the fact that it is known that the ODP of cleaners is reduced when nPB is included in the final cleaner formulation.

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It has been found that brominated solvents, and most preferably nPB, have excellent characteristics for use as an electrical contact cleaner. Specifically, these brominated solvents have been found to have good solvency and little to no flammability. In addition, the solvents have been found to have low ozone depletion potentials (ODPs). As will be recognized by those skilled in the art, the lower the value of the ODP, the lower the adverse effect on the stratospheric ozone. To this end, it has been found that nPB has a low ODP, that is predicted to be about 0.002 to about 0.03 in a concentrated form. Most advantageously, the ODP of the cleaner is even lower when the nPB is in the final cleaner formulation.

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31. In light of the prior art teaching that it is desirable to reduce the emission of ODCs (as well as the intuitive obviousness of such a desirability), and the explicit teaching in '471 the artisan, would have been motivated to combine the teachings of the references to achieve the claimed invention, i.e. cleaning solution having reduced ODP concentrations. Additional motivation exists because an artisan would have been motivated to create an effective cleaner that complies with regulatory emission standards. It is noted that VOC and ODP are used synonymously, at least to the extent that they relate to regulatory compliance concerning emission standards.

32. With respect to claims 43 and 44, following the reasoning as set forth regarding claims 15 and 24, each and every element of claim 43 is set forth in the '989 patent and '510 patent, except that both fail to explicitly teach the use of octylphenoxypolyethoxyethanol. This is a common and widely used surfactant marketed *inter alia* under the Tradename TRITON-X® and is used in the prior art of record, see for example column 5 of '665:

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The composition of the invention may furthermore comprise a surfactant. This surfactant will be present in an amount of about 0.001–10% by weight. An example of such a surfactant is octylphenoxypolyethoxyethanol. The surfactant may also be various salts of fatty acids or the like.

33. Since surfactants are commonly used in cleaners, as wetting agents, the artisan would have been motivated to add a wetting agent to the solution to make the cleaner more effective, and may have selected this particular surfactant because it may have anti-microbial properties.

34. Applicant has argued the compositions and methods are not obvious to one of ordinary skill in the art, even when viewed in light of the aggregated references. The arguments are not persuasive. The elements are taught and the requisite motivation is present, as such, the *prima facie* case is made out.

Claim Rejections - 35 USC § 103

35. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

36. Claims 16-24 were rejected under 35 U.S.C. 103(a) as being unpatentable over '989 in view of '510. Following the reasoning as set forth regarding claim 15, each and every element of claim 16 and 17 is set forth in the '989 patent, except that '989 fails to explicitly teach that methylal can be used as a first solvent. The '510 patent teaches that it is well known that azeotropic mixtures of solvents or mixtures approximating thereto can be employed as cleaning liquids especially for the removal of contaminants from synthetic organic polymers or plastic

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materials. Such mixtures often comprise 1,1,2-trichloro-1,2,2-trifluoroethane as a primary solvent and a co-solvent. The latter may be selected from a very large number of solvents including by way of example...methylal...and lower aliphatic alcohols, for example, ethanol. The artisan would have been motivated to make the instant combination because such a combination would result in a cleaning solution that is useful for the removal of contaminants from synthetic organic polymers or plastic materials.

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It is well known that azeotropic mixtures of solvents or mixtures approximating thereto can be employed as cleaning liquids especially for the removal of contaminants from synthetic organic polymers or plastic materials. Such mixtures often comprise 1,1,2-trichloro-1,2,2- 10 trifluoroethane as a primary solvent and a cosolvent. The latter may be selected from a very large number of solvents including by way of example, methylene chloride, acetonitrile, methyl acetate, methylal, acetone, 1,1-dichloroethane, trans-dichloroethylene and lower 15 aliphatic alcohols, for example, ethanol.

37. With specific reference to claims 18, 19, 21-23, and 24 there is nothing in the specification suggesting the instant combination (of claim 18) produces unexpected results. Rather, the instant application appears to contemplate a wide range of compositions and list this as a mere example. The prior art appears to contemplate a variety of ranges and while the exact proportions claimed are not disclosed it would have been obvious to adjust the mixtures in any number of ways based of economic considerations, personal taste, or non-inventive, routine optimization. See SAE Technical Paper 1999-01-1501, which on page 9-11 discloses a solution comprising methylal (5%) petroleum distillate (93%) and MeOH (less than 7%) and water. The

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desirability of using a fragrance to cover disagreeable odors, is part of the Applicant's admitted prior art and is disclosed in the '510 patent. It should be noted that the recitation of a range that includes "0" as an endpoint is properly anticipated by a reference that does not include such a component. See also United States Patent No. 5,750,488 to Haskell et al. disclosing the interchangeability of MeOH and EtOH in cleaning systems:

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60 **The fluorinated chemical constitutes roughly at least about 75% of the weight of the entire composition, and the acetal component constitutes no more than about 20% of the entire composition. More preferably, the fluorinated chemical constitutes about 80-90% of the entire composition, and**
65 **the acetal constitutes about 5-12% of the composition.**

The cleaning composition of the invention may also, and preferably does contain ingredients in addition to the flu-

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orinated chemical and the acetal. Alcohols, aldehydes, ketones and hydrocarbons are exemplary optional components for the composition of the invention. When present, these flammable components are preferably lower boiling than the fluorinated chemical. 5

Alcohols suitable for inclusion in the inventive composition include methanol, ethanol, n-propanol, isopropanol, butanol, sec-butanol, tert-butanol and isobutanol. Aldehydes

38. Applicant has argued the compositions and methods are not obvious to one of ordinary skill in the art, even when viewed in light of the aggregated references. The arguments are not persuasive. The elements are taught and the requisite motivation is present, as such, the *prima facie* case is made out. The rejection is made final.

39. Claims 29-37, 40, 43, 45, 46, and 49-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5,750,488 to Haskell et al. ('488) in view of '989.

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Following the reasoning as set forth regarding claim 15, the claim is essentially anticipated except that the '989 may fail to explicitly teach the composition uses less than 3% by weight VOC. Applicant has apparently merely described the routine variation in components, which would fall within the ambit of what 35 U.S.C. 103(a) contemplates. That said, the Haskell discloses a multi-component cleaning solution:

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methyal. Another preferred solvent composition of the invention consists of about 80–90 weight percent perfluoro-N-methylmorpholine, about 5–12 weight percent methyal and about 1–10 weight percent of C₅–C₉ hydrocarbon. 45

A further preferred solvent composition of the invention consists of about 40–50 weight percent perfluoro-N-methylmorpholine, about 30–50 weight percent 1,1,1,2,3,4, 50 4,5,5,5-decafluoropentane and about 5–12 weight percent methyal. Optionally, the further preferred solvent composition contains about 1–10 weight percent methanol.

40. The solvent appears to teach the components contemplated by the applicant. Since the solvent is specifically designed for low VOC emissions, an artisan would have considered this a meaningful reference and would have been motivated to make the instant combination in the interest of making a functional, environmentally friendly solvent. With specific regard to claims 36 and 37 see column 4, lines 18-20 of the '488 patent. The recitation of the alternative order of steps is inherently taught and further is an obvious variation, which would naturally occur as the artisan would have tried different materials for stain removal efficacy.

41. Claims 25, 48, 56, 57, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over '989 in view of '510 further in view of United States Patent No. 4,421,665 to Lloyd et al.

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(‘665). Following the reasoning as set forth regarding claims 15 and 24, each and every element of claim 56 is set forth in the ‘989 patent and ‘510 patent, except that both fail to explicitly teach the use of octylphenoxypolyethoxyethanol. This is a common and widely used surfactant marketed *inter alia* under the Tradename Triton-X® and is a widely used. See column 5 of ‘665:

The composition of the invention may furthermore comprise a surfactant. This surfactant will be present in an amount of about 0.001–10% by weight. An example of such a surfactant is octylphenoxypolyethoxyethanol. The surfactant may also be various salts of fatty acids or the like. 40

42. Since surfactants are commonly used in cleaners, as wetting agents, the artisan would have been motivated to add a wetting agent to the solution to make the cleaner more effective, and may have selected this particular surfactant because it may have anti-microbial properties. Removing with a stream of water would inherently occur if the cleaner was applied to an object (such as an automobile) and were removed. In a larger sense the direction of a stream of water at loosened particulate was practiced since ancient times. See Smithsonian Magazine, August 1999, Turning Water to Gold. The artisan would have been motivated to use a stream of water to remove the loosened particles because it is an inexpensive and generally effective method of moving particulate matter.

43. Applicant has argued the compositions and methods are not obvious to one of ordinary skill in the art, even when viewed in light of the aggregated references. The arguments are not persuasive. The amendment to the claims fail to distinguish the disclosed compositions from those of the prior art of record. The elements are either identically taught, or would have been

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obvious, at the time of the invention. The conclusion of obviousness is based on the teachings of the prior art of record coupled with the presence of the requisite motivation.

44. Because each and every claim is anticipated or would have been obvious to one of ordinary skill in the art at the time the invention was made, all claims are finally rejected.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

45. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

46. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gentle E. Winter whose telephone number is (703) 305-3403. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on (703) 308-4333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Gentle E. Winter
Examiner
Art Unit 1746

September 30, 2002

A handwritten signature in black ink, appearing to read "Randy Gulakowski", is written over a horizontal line.

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700